

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
08-CR-00010-PJS/FLN

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	JUDGE PATRICK J. SCHILTZ
)	
v.)	
)	MAGISTRATE JUDGE
FRANCIS LEROY McLAIN,)	FRANKLIN L. NOEL
)	
Defendant.)	
_____)	

MOTION TO DISMISS INDICTMENT PER FRCRP RULE 12(b)(3)(A)
FOR UNLAWFUL SERVICE OF PROCESS IN VIOLATION OF THE
FOURTH AMENDMENT

COMES Rick E. Mattox, Court-Appointed Attorney for defendant in the above-entitled action, Francis Leroy McLain, and moves this Court to dismiss the indictment against him for the reason that the Fourth Amendment, U.S. Constitution, forbids the issuing of an arrest warrant except upon probable cause supported by oath or affirmation – which is a “defect in instituting the prosecution” per Rule 12(b)(3)(A).

WHEREFORE, defendant Francis Leroy McLain moves this Court to dismiss the indictment against him.

Date: May 5, 2008

Respectfully submitted,
s/ Rick E. Mattox

Rick E. Mattox, 0068731
Attorney for Defendant
16670 Franklin Trail, Suite 250
Prior Lake, MN 55372